

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION

**FILED**

JUN 26 2019

Clerk, U S District Court  
District Of Montana  
Billings

ALBERT HARE,

Plaintiff,

vs.

KENNETH RAYMOND COTTRELL  
and ALLAN KITTERMAN,

Defendants.

CV 18-116-BLG-SPW

ORDER ADOPTING  
MAGISTRATE'S FINDINGS  
AND RECOMMENDATIONS

The United States Magistrate Judge filed Findings and Recommendations on June 3, 2019. (Doc. 10). The Magistrate recommended the Court dismiss the case for failure to state a claim. (Doc. 10 at 2).

Pursuant to 28 U.S.C. § 636(b)(1), parties are required to file written objections within 14 days of the filing of the Magistrate's Findings and Recommendation. No objections were filed. When neither party objects, this Court reviews the Magistrate's Findings and Recommendation for clear error.

*McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d

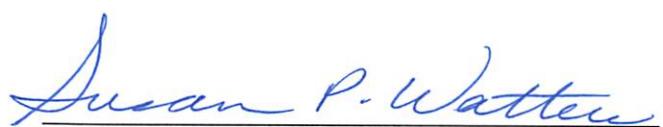
422, 427 (9th Cir. 2000). After reviewing the Findings and Recommendation, this Court does not find that the Magistrate committed clear error.

IT IS ORDERED that the proposed Findings and Recommendations entered by the United States Magistrate Judge (Doc. 10) are ADOPTED IN FULL.

IT IS FURTHER ORDERED:

1. This case is DISMISSED for failure to state a claim.
2. The Clerk of Court is directed to close this matter and enter judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.
3. The Clerk of Court is directed to have the docket that the Court certifies pursuant to Rule 24(a)(3)(A) of the Federal Rules of Appellate Procedure that any appeal of this decision would not be taken in good faith.
4. The Clerk of Court is directed to have the docket reflect that this dismissal counts as a strike pursuant to 28 U.S.C. § 1915(g) because Mr. Hare failed to state a claim upon which relief may be granted.

DATED this 26<sup>th</sup> day of June, 2019.

  
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SUSAN P. WATTERS  
United States District Judge